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7 GERARDO ACEVES, et al.,  
8 Plaintiffs,  
9 v.  
10 COINBASE GLOBAL, INC., et al.,  
11 Defendants.

Case No. 24-cv-02663-MMC

**ORDER GRANTING DEFENDANTS'  
MOTION TO TRANSFER**

12 Before the Court is defendants' "Motion to Transfer Action to the Southern District  
13 of New York or to Stay Action," filed October 16, 2024. Plaintiffs have filed opposition, to  
14 which defendants have replied. Having read and considered the papers filed in support of  
15 and in opposition to the motion, the Court rules as follows.<sup>1</sup>  
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**BACKGROUND**

17 Plaintiffs Gerardo Aceves, Thomas Fan, Edwin Martinez, Tiffany Smoot, Edouard  
18 Cordi, Brett Maggard, Mollijoy Carter, Bradley Barnes, and Antonett Foy, bring this  
19 consolidated class action against defendants Coinbase Global, Inc., Coinbase, Inc.  
20 (collectively "Coinbase"), and Brian Armstrong ("Armstrong"),<sup>2</sup> "broadly alleg[ing] that  
21 Coinbase offers, sells, and solicits investment in unregistered securities and operates as  
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27 <sup>1</sup> By Order filed January 9, 2025, the Court took the matter under submission.  
28 <sup>2</sup> According to plaintiffs, Armstrong "is the co-founder of Coinbase, and served as  
the Company's Chief Executive Officer ('CEO') and Chairman of the Coinbase Board of  
Directors ('Board')."(See Pls.' Consolidated Class Action Complaint ("CCAC") ¶ 17.)

an unregistered broker/dealer in violation of California and Florida state law." (See Pls.'  
Opp'n. at 3:17-19.) Plaintiffs sue on behalf of a national putative class defined as "all  
persons and entities other than Defendants that purchased or otherwise acquired the  
Coinbase Digital Investments (including, but not limited to [seventy-nine digital assets]<sup>3</sup>  
from January 1, 2017 through the commencement of this action." (See CACC ¶ 1.)

In particular, plaintiffs bring the following four claims under California state law:  
"Sale of Unregistered Securities" (Cal. Corp. Code §§ 25110, 25503), "Unlicensed  
Broker-Dealer" (Cal. Corp. Code § 25210), "Unlawful Acts and Practices" (Cal. Bus. &  
Prof. Code § 17200) and "Unfair Acts and Practices" (Cal. Bus. & Prof. Code § 17200).<sup>4</sup>  
Similarly, plaintiffs bring the following five claims under Florida state law: "Sale of  
Unregistered Securities" (Fla. Stat. § 517.07), "Unregistered Dealer" (Fla. Stat. §  
517.211), "Negligence in Connection with the Purchase and Sale of an Investment" (Fla.  
Stat. § 517.301), "the Florida RICO Act" (Fla. Stat. § 772), and "Deceptive and Unfair  
Trade Practices Act" ("FDUPTA") (Fla. Stat. Ann. § 501.211(1)).<sup>5</sup> (See CACC ¶¶ 20-301.)

Plaintiffs filed their initial complaint on May 3, 2024. By order filed July 11, 2024,  
the action was consolidated with Carter, et al. v. Coinbase Global, Inc., et al., Case No.

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<sup>3</sup> The above-referenced seventy-nine digital assets are listed as: "Coinbase Earn, 1INCH, ACH, ADA, AMP, ALGO, ANKR, AUCTION, AVAX, AAVE, ABT, AIOZ, BLZ, BAL, BAT, BOND, CGLD, CHZ, CLV, CRO, COMP, CTSI, cbETH, DOGE, DASH, DOT, ENJ, EOS, FET, FLR, FORTH, GNO, GODS, GAL, GALA, GRT, IMX, JASMY, KEEP, LRC, LINK, MANA, MATIC, MCO2, MLN, NKN, NCT, NEAR, NMR, NU, OP, OGN, OMG, POLS, PLU, PRO, RNDR, RARI, REQ, RLY, SUI, SUKU, SAND, SHIB, SKL, SOL, SUSHI, USDC, USDT, UMA, UNI, VET, XCN, XRP, XLM, XTZ, YFI, ZEN, and ZRX." (See CCAC ¶1.)

<sup>4</sup> The last two claims are brought under California's Unfair Competition Law ("UCL").

<sup>5</sup> In the heading for their claim under FDUPTA, plaintiffs add the phrase "On Behalf of the Florida Subclass." (See CCAC at 54:19-23.) The CCAC, however, contains no other reference to a subclass.

1 24-cv-03350,<sup>6</sup> and on September 16, 2024, plaintiffs filed the CCAC, which remains the  
2 operative pleading in the instant action.

3 Prior to the filing of the instant action, Christopher Underwood (“Underwood”),  
4 Louis Oberlander (“Oberlander”), and Zeneyda Patin, “individually and on behalf of all  
5 others similarly situated,” brought suit on October 8, 2021, against Coinbase Global, Inc.  
6 in the Southern District of New York. See Underwood v. Coinbase, No. 1:21-cv-08353  
7 (S.D.N.Y. 2021) (“Underwood Action”), after which, on March 11, 2022, Underwood and  
8 Oberlander, now joined by Henry Rodriguez, filed an amended complaint against  
9 Coinbase Global, Inc., Coinbase, Inc., and Brian Armstrong. In their Amended Complaint,  
10 said plaintiffs bring claims alleging the unlawful sale of unregistered “securities” and  
11 unlawful operation as an unregistered “securities exchange or . . . broker-dealer.” (See  
12 Underwood Amended Compl. ¶1.)

13 The plaintiffs in the Underwood Action (“Underwood plaintiffs”), sue on behalf of a  
14 national putative class defined as “all persons or entities who transacted in [seventy-nine  
15 digital assets]<sup>7</sup> on the Coinbase Platform . . . and/or the Coinbase Pro Platform . . . during  
16 the Class Period,” defined as “between October 8, 2019 and the present” (see id. ¶ 1), as  
17 well as on behalf of California, Florida, and New Jersey subclasses (see id. ¶ 919).

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23 <sup>6</sup> The initial complaint in Carter, et al. v. Coinbase Global, Inc., et al., Case No. 24-cv-03350 was filed June 4, 2024.

24 <sup>7</sup> The above-referenced seventy-nine digital assets are listed as: “1INCH, AAVE,  
25 ACH, ADA, AGLD, ALGO, AMP, ANKR, ARPA, ATOM, AUCTION, AXS, BAL, BAND,  
26 BAT, BNT, BOND, BTRST, CGLD, CLV, COMP, CRO, CRV, CTSI, CVC, DNT, DOGE,  
DOT, ENJ, EOS, FARM, FET, FIL, FORTH, GNT, GRT, GTC, ICP, IOTX, KEEP, KNC,  
LINK, LOOM, LRC, MANA, MATIC, MKR, MLN, NKN, NMR, NU, OGN, OMG, ORN,  
OXT, PLA, POLY, QNT, QUICK, RARI, REN, REP, RLC, SHIB, SKL, SNX, SOL, STORJ,  
SUSHI, TRB, TRIBE, UMA, UNI, XLM, XRP, XTZ, XYO, YFI, ZRX.” (See Underwood  
27 Amended Compl. at n.1.)

1           In particular, the Underwood plaintiffs bring the following eight claims under  
2 California, Florida, and New Jersey state law, respectively: “Offer or Sale of Unqualified  
3 Securities” (Cal. Corp. Code §§ 25110, 25130, 25503), “Sale of Securities by an  
4 Unregistered Broker-Dealer” (Cal. Corp. Code §§ 25210, 25501.5(a)), and “Control  
5 Person Liability for Violations of the California Securities Act” (Cal. Corp. Code § 25504);  
6 “Offer or Sale of Unregistered Securities” (Fla. Stat. §§ 517.07, 517.211) and “Sale of  
7 Securities by an Unregistered Dealer” (Fla. Stat. §§ 517.12(1), 517.211); and “Offer or  
8 Sale of Unregistered Securities” (N.J. Stat. §§ 49:3-60, 49:3-71), “Sale of Securities by an  
9 Unregistered Broker-Dealer” (N.J. Stat. §§ 49:3-56(a), 49:3-71), and “Control Person  
10 Liability for Violations of the New Jersey Uniform Securities Act” (N.J. Stat. § 49:3-71(d)).  
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12 (See id. ¶¶ 1016-1106.)

13           Additionally, the Underwood plaintiffs bring the following seven claims under  
14 federal securities law: “Offer and Sale of Unregistered Securities” (Securities Act §§ 5,  
15 12(a)(1)), “Control Person Liability for Violations of the Securities Act” (Securities Act §  
16 15), “Illegal Contracts to Pay Transaction Fees to an Unregistered Exchange” (Exchange  
17 Act §§ 5, 29(b)), “Illegal Contracts to Pay Transaction Fees to an Unregistered Broker or  
18 Dealer” (Exchange Act §§ 15(a)(1), 29(b)), “Illegal Contracts to Purchase Securities from  
19 an Unregistered Exchange” (Exchange Act §§ 5, 29(b)), “Illegal Contracts to Purchase  
20 Securities From an Unregistered Broker or Dealer” (Exchange Act §§ 15(a)(1), 29(b)),  
21 and “Control Person Liability for Violations of the Exchange Act” (Exchange Act § 20).  
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23 (See Underwood Amended Compl. ¶¶ 931-1015.)

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25           On February 1, 2023, the district court in the Underwood Action issued an order of  
26 dismissal, whereby it dismissed the federal claims with prejudice and chose not to  
27 exercise supplemental jurisdiction over the state law claims. Thereafter, on April 5, 2024,  
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1 the Second Circuit affirmed the dismissal of the Exchange Act claims but reversed the  
2 dismissal of the Securities Act claims and the dismissal of the state law claims. See  
3 Underwood v. Coinbase Glob., Inc., 654 F. Supp. 3d 224, 244 (S.D.N.Y. 2023), aff'd in  
4 part, rev'd in part and remanded sub nom. Oberlander v. Coinbase Glob. Inc., No. 23-  
5 184-CV, 2024 WL 1478773 (2d Cir. Apr. 5, 2024). On July 29, 2024, the Underwood  
6 defendants moved for judgment on the pleadings; on February 7, 2025, the motion was  
7 denied.  
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9 On October 16, 2024, defendants filed the instant Motion to Transfer citing the  
10 “first-to-file rule” (see Mot. to Transfer at 1:16), and, in support thereof, the Underwood  
11 Action (see id. at 1:6-9).

## 12 DISCUSSION

13 Defendants argue the instant action should be transferred to the Southern District  
14 of New York, or, in the alternative, stayed pending resolution of the Underwood Action. In  
15 response, plaintiffs contend the action cannot be transferred, for the asserted reason that  
16 the Southern District of New York lacks jurisdiction and is an improper venue. Plaintiffs  
17 further contend the first-to-file rule is inapplicable.  
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### 19 A. Jurisdiction and Venue

20 “A district court may transfer any civil action to any other district or division where it  
21 might have been brought.” 28 U.S.C. § 1404. A potential transferee court is one wherein  
22 there is (1) “subject matter jurisdiction” over the transferred action, (2) “personal  
23 jurisdiction over all . . . defendants,” and (3) “venue . . . that [is] proper.” See, e.g.,  
24 Williams v. Bowman, 157 F.Supp.2d 1103, 1105 (N.D. Cal. 2001).

25 Here, for the same reasons as applicable in this District, namely qualification  
26 under the Class Action Fairness Act (“CAFA”), the Court finds subject matter jurisdiction  
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over the instant action exists in the Southern District of New York. See 28 U.S.C. § 1332(d)(2).

Next, the Court finds personal jurisdiction is satisfied. See N.Y. Civil Practice Law & Rules § 302(a)(1) (providing “court may exercise personal jurisdiction over any non-domiciliary . . . [that] transacts any business within [New York]”).<sup>8</sup> (See also Pls.’ Opp’n. at 6, n.5) (acknowledging Coinbase, Inc. is “registered in New York and lists an office in New York”).<sup>9</sup>

Lastly, the Court finds venue is proper in the Southern District of New York. In that regard, venue is proper in “a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred,” see 28 U.S.C. §1331(a), and “may be proper in multiple districts,” see Richmond Techs., Inc. v. Aumtech Bus. Sols., No. 11-CV-02460-LHK, 2011 WL 2607158, at \*10 (N.D. Cal. July 1, 2011) (citing Gulf Ins. Co. v. Glasbrenner, 417 F.3d 353, 356 (2d Cir. 2005)); see also Knuttel v. Omaze, Inc., 572 F. Supp. 3d 866, 870 (N.D. Cal. 2021) (noting “venue inquiry focuses on the defendant’s activities, not the plaintiffs”; further noting venue is “intended to preserve the element of fairness so that a defendant is not haled into a remote district having no real relationship to the dispute”) (internal quotation and citation omitted). Here, although plaintiffs’ allegations of wrongdoing are not jurisdiction-specific, but, rather, concern digital assets offered on the national Coinbase trading platform and actions taken around the country,<sup>10</sup>

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<sup>8</sup> See Mallory v. Norfolk S. Ry. Co., 600 U.S. 122, 137 (2023) (holding state statute requiring out-of-state corporation to consent to personal jurisdiction to do business there comports with Due Process Clause of Fourteenth Amendment.)

<sup>9</sup> In their respective arguments, the parties make no distinction between Coinbase and Armstrong. Consequently, the Court likewise does not do so herein.

<sup>10</sup> Plaintiffs allege, for example, “the Coinbase Digital Asset Enterprise’s unlawful conduct and wrongful practices were carried out by an array of employees, working

1 plaintiffs, as noted, acknowledge Coinbase is registered in and has an office in New York,  
2 and the Underwood plaintiffs have alleged Armstrong “has . . . often traveled to New York  
3 City to promote Coinbase,” including for the purpose of attending cryptocurrency  
4 conferences. (See Foster Reply Decl., Ex. D at 10, quoting Underwood Action Amended  
5 Compl.)

6 Accordingly, the Court finds the instant action could have been brought in the  
7 Southern District of New York.

8 **B. First-to-File Rule<sup>11</sup>**

9 Pursuant to the first-to-file rule, “when cases involving the same parties and issues  
10 have been filed in two different districts, the second district court has discretion to  
11 transfer, stay, or dismiss the second case in the interest of efficiency and judicial  
12 economy.” See Cedars-Sinai Medical Ctr. v. Shalala, 125 F.3d 765, 769 (9th Cir.1997). In  
13 deciding whether to apply the first-to-file rule, a court considers: (1) the “chronology” of  
14 the actions; (2) the “identity” of the parties; and (3) the “similarity” of the issues at  
15 stake. See Alltrade, Inc. v. Uniweld Prods., Inc., 946 F.2d 622, 625 (9th Cir.1991).  
16 Although the rule is discretionary, see Adoma v. Univ. of Phoenix, 711 F.Supp.2d 1142,

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21 across state boundaries, who necessarily relied upon frequent transfers of documents,  
22 communications, information, products, and funds by the U.S. Mail and interstate wire  
facilities.” (See CCAC ¶¶ 210.)

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28 <sup>11</sup> Although plaintiffs devote a considerable part of their Opposition to a discussion  
of transfers pursuant to 28 U.S.C. § 1404(a), defendants do not bring their Motion to  
Transfer under that section, and to the extent plaintiffs may be contending the Court  
nonetheless should consider the factors applicable to a § 1404 motion, the Court declines  
to do so, as “normally the forum non conveniens argument should be addressed to the  
court in the first-filed action.” See Pacesetter Sys., Inc. v. Medtronic, Inc., 678 F.2d 93, 96  
(9th Cir. 1982).

1146 (E.D. Cal. 2010), it “normally serves the purpose of promoting efficiency well and  
1 should not be disregarded lightly.” See Church of Scientology v. United States Dept. of  
2 the Army, 611 F.2d 738, 750 (9th Cir.1979) (noting rule “is designed to avoid placing an  
3 unnecessary burden on the federal judiciary, and to avoid the embarrassment of  
4 conflicting judgments”).  
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6 **1. Chronology**

7 There is no dispute here as to chronology, the Underwood Action having been  
8 filed more than two years prior to the instant action.  
9

10 Accordingly, the Court finds the first prerequisite is satisfied.

11 **2. Identity of Parties**

12 There is no dispute that the defendants here and in the Underwood Action are  
13 identical. Plaintiffs contend, however, that the named plaintiffs are different and that the  
14 classes “differ in significant ways.” (See Pls.’ Opp’n. at 2:21-23.)  
15

16 At the outset, the Court notes that the first-to-file rule “does not require exact  
17 identity of the parties[,] . . . only substantial similarity of parties.” See Kohn L. Grp., Inc. v.  
18 Auto Parts Mfg. Mississippi, Inc., 787 F.3d 1237, 1240 (9th Cir. 2015). Moreover, in  
19 considering whether the plaintiffs in two class actions are sufficiently similar, courts  
20 compare the classes, rather than the named plaintiffs. See, e.g., Adoma, 711 F.Supp.2d  
21 at 1147 (holding “[i]n a collective action, the classes and not the class representatives are  
22 compared”); Bellone v. First Transit, Inc., No. 21-CV-09617-HSG, 2022 WL 4292964, at  
23 \*3 (N.D. Cal. Sept. 16, 2022) (noting “the majority of courts in this district compare the  
24 putative classes rather than the named plaintiffs, whether or not any class has been  
25 certified”).  
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1           Here, the complaints in both the instant action and the Underwood action are  
2 brought on behalf of a nationwide class of consumers who bought Coinbase digital  
3 assets. Although plaintiffs point out that the instant class includes a larger number of  
4 digital assets and spans a longer period of time, “[d]istrict courts within the Ninth Circuit  
5 have found that proposed classes in class action lawsuits are substantially similar where  
6 both classes seek to represent at least some of the same individuals,” see id. at \*3  
7 (internal quotation and citation omitted), particularly where one class subsumes the other,  
8 see Hilton v. Apple Inc., No. C-13-2167, 2013 WL 5487317, at \*7 (N.D. Cal. Oct. 1, 2013)  
9 (finding parties sufficiently similar where class in one action included all iPhone 4 and 4S  
10 purchasers, whereas class in other action included only iPhone 4 purchasers); see also  
11 Reynosa v. Home Depot U.S.A., Inc., 2021 WL 5000693, at \*2 (C.D. Cal. June 19, 2021)  
12 (finding similarity where class in first-filed action was subsumed by class in later-filed  
13 action).  
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15           Here, the Court finds the two class periods, namely January 1, 2017, through May  
16 3, 2024, in the instant action, and October 8, 2019, through March 11, 2022, in the  
17 Underwood Action, overlap to a sufficient extent, and further notes that close to sixty  
18 percent of the class members’ purchases overlap, namely forty-six of the seventy-nine  
19 digital assets in question.<sup>12</sup>  
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21           Accordingly, the Court finds the second prerequisite is satisfied.  
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### 23           **3. Similarity of Issues**

24           As with the parties, “[t]he issues in both cases also need not be identical, only  
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26           <sup>12</sup> The overlapping assets are: 1INCH, AAVE, ACH, ADA, ALGO, AMP, ANKR,  
27 AUCTION, BAL, BAT, BOND, CGLD, CLV, COMP, CRO, CTSI, DOGE, DOT, ENJ, EOS,  
FET, FORTH, GRT, KEEP, LINK, LRC, MANA, MATIC, MLN, NKN, NMR, NU, OGN, OMG,  
RARI, SHIB, SKL, SOL, SUSHI, UMA, UNI, XLM, XRP, XTZ, YFI, and ZRX.  
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1 substantially similar." See Kohn, 787 F.3d at 1240. "To determine whether two suits  
2 involve substantially similar issues, [courts] look at whether there is substantial overlap  
3 between the two suits." See id. at 1241. See, e.g., Inherent.com v. Martindale-Hubbell,  
4 420 F. Supp. 2d 1093, 1099 (N.D. Cal. 2006) (finding issues substantially similar where  
5 later-filed action asserted claims for tortious conduct and breach of contract and earlier-  
6 filed action asserted claims for breach of contract alone; noting legal issues were  
7 "intimately intertwined" in light of shared "factual and legal considerations").  
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9       Here, all of the California securities law claims that are brought in the instant  
10 action are also brought in the Underwood Action, and all but one of the Florida securities  
11 law claims that are brought in the instant action are also brought in the Underwood  
12 Action. Moreover, although each action includes several additional state law claims that  
13 the other does not, and although only the Underwood action includes federal securities  
14 claims, both actions share a "central question" and "common factual" underpinnings.  
15 See Adoma, 711 F. Supp. 2d at 1149. Specifically, the plaintiffs in both actions raise the  
16 question of whether Coinbase offers, sells, and solicits investment in unregistered  
17 securities and whether Coinbase operates as an unregistered broker or dealer in violation  
18 of California and Florida state law.  
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20       Plaintiffs contend the inclusion of federal securities claims in the Underwood  
21 Action nonetheless renders the first-to-file rule inapplicable because, the Underwood  
22 plaintiffs assert, "[t]he claims of the Underwood Action are primarily, and for all intents  
23 and purposes, federal securities claims" (see Pls.' Opp'n. at 12:25-26), and, according to  
24 plaintiffs, the district court's initial decision to choose not to exercise supplemental  
25 jurisdiction over the state claims demonstrates a tendency to "stick to federal claims, of  
26 which they are accustomed" (see Pls.' Opp'n. at 13:3). The Court is not persuaded. As  
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1 noted, the Southern District of New York has been directed to consider the state claims,  
2 see Oberlander Coinbase Glob., Inc., No. 23-184-cv, 2024 WL 1478773, at 11, and  
3 certainly is no less qualified to consider those claims than a court in this District. See  
4 Rabinowitz v. Samsung Elecs. Am., Inc., No. 14-cv-00801-JCS, 2014 WL 5422576, at \*7  
5 (N.D. Cal. Oct. 10, 2014) (noting “District courts regularly apply the law of states other  
6 than the forum state” and “are deemed capable of applying the substantive law of other  
7 states”) (internal quotation and citation omitted).

8 Accordingly, the third prerequisite is satisfied.  
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10 **C. Exception to First-to-File Rule**

11 As plaintiffs point out, even if the prerequisites of the first-to-file rule are met, the  
12 Court, in the interests of equity, has the discretion to refrain from applying the rule. See  
13 Adoma 711 F.Supp.2d at 1149 (holding “[t]he [first-to-file] doctrine is discretionary and,  
14 accordingly, the court may disregard it in the interests of equity”). “The circumstances  
15 under which an exception to the first-to-file rule typically will be made include bad  
16 faith . . . anticipatory suit, and forum shopping.” See Alltrade, Inc. v. Uniweld Prods., Inc.,  
17 946 F.2d 622, 628 (9th Cir. 1991) (internal quotation and citation omitted).  
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19 Rather than argue the above circumstances apply here, plaintiffs, citing Adoma,  
20 711 F. Supp. 2d at 1150, argue other circumstances may be considered. Adoma,  
21 however, is readily distinguishable from the present case. First, a primary concern of the  
22 district court therein was a potential bar under the statute of limitations, particularly as it  
23 pertained to class certification under the Fair Labor Standards Act, see id., and here,  
24 plaintiffs raise no such concern. Second, although the district court in Adoma expressed  
25 concern that the plaintiffs would lose the opportunity to litigate certain theories of  
26 recovery in a timely matter, or at all, see id., the defendants therein had sought a  
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1 dismissal or, in the alternative, a stay,<sup>13</sup> whereas defendants here seek, in the first  
2 instance, a transfer.

3 Accordingly, the Court finds the factors weighing in favor of application of the first-  
4 to-file rule are not outweighed by equitable considerations.

5 **CONCLUSION**

6 For the reasons set forth above, the Court finds application of the first-to-file rule  
7 will best serve the interests of efficiency, judicial economy and the avoidance of  
8 conflicting judgments. Accordingly, defendants' Motion to Transfer is hereby GRANTED,  
9 and the above-titled action is hereby TRANSFERRED to the Southern District of New  
10 York.

11 **IT IS SO ORDERED.**

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13 Dated: February 10, 2025

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16 MAXINE M. CHESNEY  
17 United States District Court  
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<sup>13</sup> In Adoma, the defendants sought a transfer, but only for convenience in connection with a motion under 28 U.S.C. § 1404(a).